

Ordinance No.: 17-22
Zoning Text Amendment No.: 12-10
Concerning: Established Building Line
– Clarification
Draft No. & Date: 1 - 6/22/12
Introduced: July 17, 2012
Public Hearing: September 11, 2012
Adopted: October 23, 2012
Effective: November 12, 2012

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND**

By: Council President Berliner

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- amend the provisions for determining the established building line; and
- amend the applicability of the established building line requirement.

By amending the following sections of the Montgomery County Zoning Ordinance,
Chapter 59 of the Montgomery County Code:

DIVISION 59-A-5. “Compliance Required.”
Section 59-A-5.33. “Established building line.”

EXPLANATION: ***Boldface** indicates a Heading or a defined term.*
Underlining indicates text that is added to existing law by the original text amendment.
[Single boldface brackets] indicate text that is deleted from existing law by original text amendment.
Double underlining indicates text that is added to the text amendment by amendment.
[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.
** * * indicates existing law unaffected by the text amendment.*

OPINION

Zoning Text Amendment No. 12-10, sponsored by Council President Berliner, was introduced on July 17, 2012. The current established building line provision lists buildings that are excluded from the setback calculation. ZTA 12-10 would clarify that any new building on the site of a building excluded from calculating the required setback is still subject to the established building line setback provision.

In its report to the Council, the Montgomery County Planning Board recommended that the text amendment be approved with amendments to subsection (d).

The County Council held a public hearing on September 11, 2012 to receive testimony concerning the proposed text amendment. The 3 speakers at the hearing favored the adoption of the ZTA. The text amendment was referred to the Planning, Housing, and Economic Development Committee for review and recommendation.

The Planning, Housing, and Economic Development Committee held a worksession on October 11, 2012 to review the amendment. The Committee (3-0) recommended approval of ZTA 12-10 with amendments to have new subsection (d) read as follows:

New buildings on lots identified by the numbered items in subsection (c) must satisfy the setback requirements of subsection (c), where applicable.

The amendments were recommended because the numbered items in subsection (c) refer to lots, not buildings, and there are instances, such as when neighboring buildings are more than 300 feet from each other, that the established building line setback would not be required.

The District Council reviewed Zoning Text Amendment No. 12-10 at a worksession held on October 23, 2012 and agreed with the recommendations of the Planning, Housing, and Economic Development Committee.

For these reasons, and because to approve this amendment will assist in the coordinated, comprehensive, adjusted and systematic development of the Maryland-Washington Regional District located in Montgomery County, Zoning Text Amendment No. 12-10 will be approved as amended.

ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:

Sec. 1. DIVISION 59-A-5 is amended as follows:

DIVISION 59-A-5. COMPLIANCE REQUIRED.

*** * ***

59-A-5.33. Established building line.

(a) The established building line, as defined in Section 59-A-2.1, applies only to new buildings in the R-60, R-90, R-150, and R-200 zones. The established building line does not apply to an alteration or addition to an existing building.

(b) The two or more one-family detached residential buildings considered in determining the established building line must all be:

- (1) within 300 feet of the side property line of the proposed construction site, measured along the street frontage;
- (2) along the same side of the street;
- (3) between intersecting streets or to the point where public thoroughfare is denied;
- (4) in existence or approved by a building permit when the building permit application on the subject property is filed;
- (5) legally constructed; and
- (6) not on a through lot if the building on the through lot fronts on a street other than the street fronting the subject property.

(c) The established building line is the minimum setback for the zone, unless there are at least two buildings as described in subsection (b) and more than 50 percent of the buildings described in subsection (b) are set back greater than the minimum, in which case the average setback of all the buildings described in subsection (b), excluding those buildings:

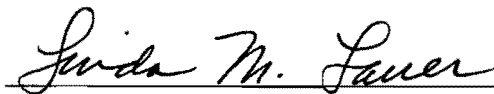
- (1) in the R-200 zone that are or were ever served by well or septic;
- (2) on the subject property;

- (3) in a different zone than the subject property;
 - (4) on a through lot that fronts on a street different than the subject property;
 - (5) located on any pipestem, wedge-shaped, or flag-shaped lot; or
 - (6) approved by permit for demolition, except if a building permit was also approved with the same setback,
- is the established building line, unless the applicant chooses to calculate the setback as the average setback of the two adjoining lots or the applicant chooses to use the front setback of the existing one-family building that was established before demolition, excluding any approved variance, if the existing building meets the minimum setback of the zone. All calculations must be based on a survey that is signed and sealed by a licensed engineer or surveyor. Any building excluded from the established building line restriction must comply with the minimum setback requirement of the zone.
- (d) New buildings on lots identified by the numbered items in subsection (c) must satisfy the setback requirements of subsection (c), where applicable.
 - (e) Corner lots have two front yards and are subject to established building line standards on both streets. At the option of the applicant, a corner lot may use front setbacks of the adjoining buildings on both sides of the corner lot.

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Sec. 2. Effective date. This ordinance becomes effective 20 days after the date of Council adoption.

This is a correct copy of Council action.



Linda M. Lauer, Clerk of the Council